



## **BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION**

### **Advisory Opinion No. 06-04-005AO**

A public employee must not participate in any matter if the employee knows that a party to that matter is any business in which a relative has an economic interest. A department head asks whether he can participate in a contractual matter where his wife is employed by one of the bidders. The Commission concludes that the department head cannot participate in this contractual matter and endorses his proposed solution: have another department act as the sole agent for the County in this procurement matter.

Absent a waiver, an employee must not participate in any matter if the employee knows or reasonably should know that any party to the matter is any business in which a relative has an economic interest, if the public employee knows about the interest. § 19A-11(A)(2)(B). By following this rule an employee can avoid any conflict between his personal interests and his duty to his employer.

The department head's duty in this procurement matter culminates in a recommendation to the County's procurement officer that the County enter in to a contract with a specific bidder. But the department head's spouse is employed by one of the competing bidders, presenting him with a conflict between his personal interests and his duty to the County.

Recognizing this conflict, the department head has proposed that another department act as the sole agent for the County in this procurement matter. By this mechanism, the department head can avoid the conflict because he will no longer participate in the procurement matter. The Commission endorses this proposed solution. The department head will have to vet this process with the Procurement Office to ensure compliance with the County's procurement laws.

In reaching this decision the Commission has relied upon the facts as presented by the requestor.

**FOR THE COMMISSION:**

A handwritten signature in cursive script, reading "Richard N. Reback".

**Richard N. Reback, Chair**

August 30, 2006